



CITY OF HAYWARD AGENDA REPORT

Meeting Date 5/27/04
Agenda Item 1

TO: Planning Commission

FROM: Carl T. Emura, Associate Planner

SUBJECT: Variance No. PL-2004-0073 – Aaron and Denise Larson (Applicant/Owner) – Request to Retain an 8-Foot Fence Along the Side and Rear Property Lines Where a Maximum of 6 Feet is Permitted

The Property Is Located at 24099 Malibu Road in the Single-Family Residential (RS) District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15305, Class 5 (a), Minor Alteration in Land Use Limitations.
2. Deny the application, subject to the attached findings.

DISCUSSION:

The applicant is requesting to retain an 8-foot-high wood fence located along the side and rear property lines where a maximum 6-foot-high fence is allowed. The fence includes a 1-foot lattice section atop of a solid 7-foot fence which replaced the original 6-foot solid common property fence. The applicant received a notice of violation from the City as a result of a complaint.

The applicant states that he is concerned about privacy and security and believes that there are special circumstances applicable to his property in that his lot is irregular in shape and is enclosed by six adjacent properties. Privacy and security are not special circumstances that may justify a variance. Though his property is irregular in shape and bordered by several properties, the lot is level like the surrounding properties and approving the variance would be granting the applicant special privileges not allowed to other properties in the vicinity. Staff also points out that it is not known whether the fence has been constructed to a standard that would meet the Uniform Building Code since no building permit was obtained.

In 2003, the Planning Commission reviewed a variance to retain a 7-foot-high wood fence at 313 Bridgecreek Way. The applicant wanted to maintain the fence to contain the dogs she fostered. The Commission vote 4-2 to approve the variance. The decision was appealed to the City Council, which unanimously denied the application. The City Council indicated that there were

no special circumstances applicable to the property to justify the variance; and though fostering of the dogs is commendable, it was not justification for a variance to the height of the fence.

ENVIRONMENTAL REVIEW:

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, Class 5 (a), Minor Alterations of Land Use Limitations.

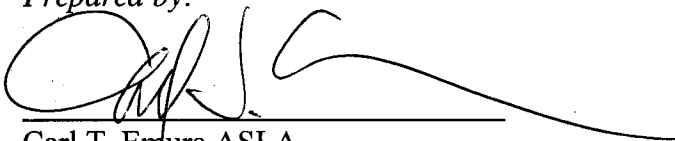
PUBLIC NOTICE:

On, April 12, 2004, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, the Westwood Manor Homeowners Association, and the Mount Eden Neighborhood Task Force. Staff received three responses, one supporting and two opposing the variance. The two opposing the variance are adjacent property owners who indicated that the 8-foot-high fence is not consistent in design with the remaining fences surrounding their properties.

CONCLUSION:

In staff's opinion, the 8-foot fence is visually intrusive to the adjacent properties, does not conform to the neighborhood standard, and the necessary findings to support the variance cannot be made. Therefore, staff recommends that the variance be denied.

Prepared by:



Carl T. Emura ASLA
Associate Planner

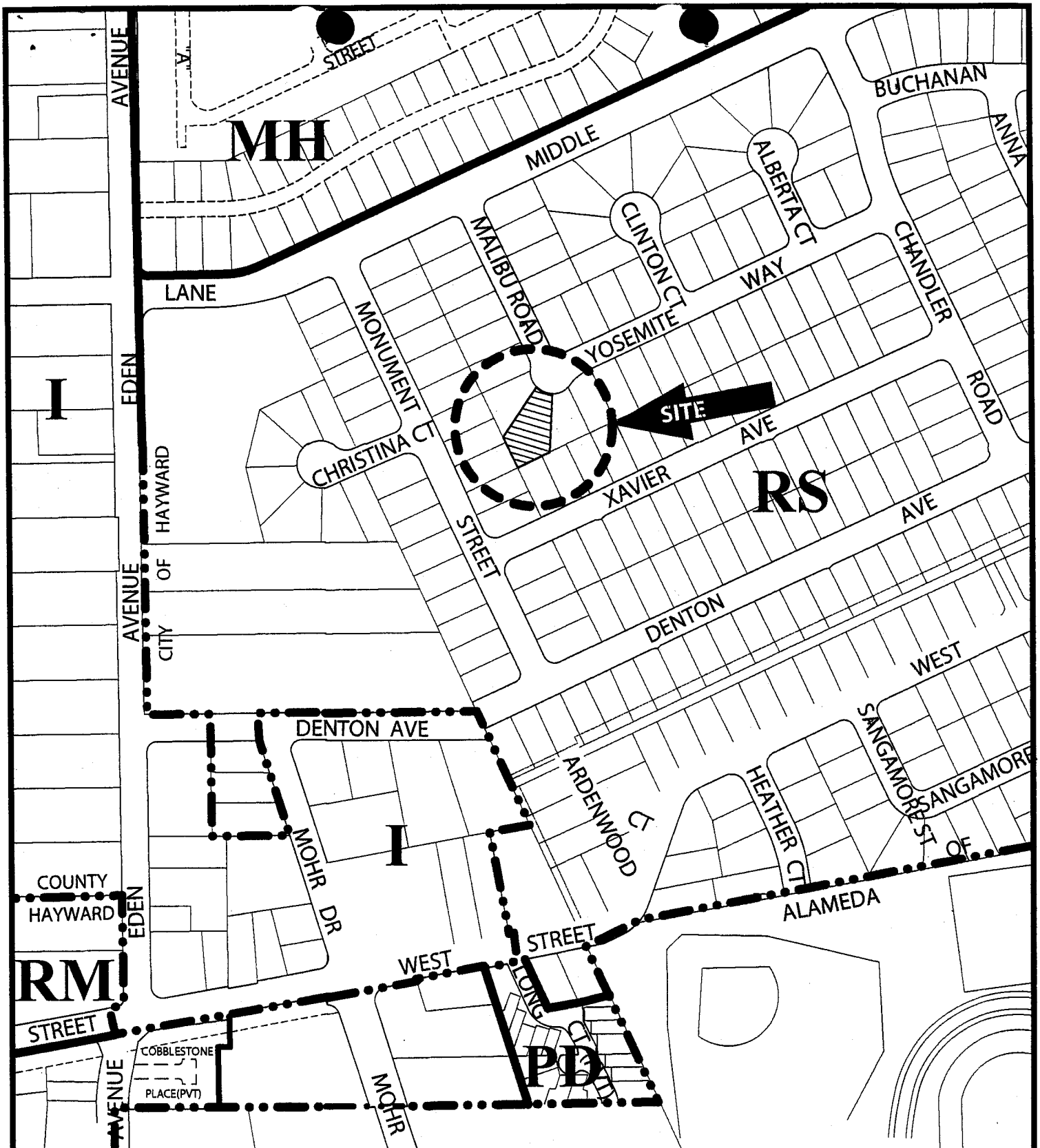
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Denial
- C. Site Plan
- D. Photographs
- E. Email dated 2/29/04



Area & Zoning Map

PL-2004-0073 VAR

Address: 24099 Malibu Road

Applicant: Aaron & Denise Larson

Owner: Aaron & Denise Larson

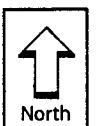
I-Industrial

MH (P)-Mobile Home Park

PD-Planned Development

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential, RSB4, RSB6



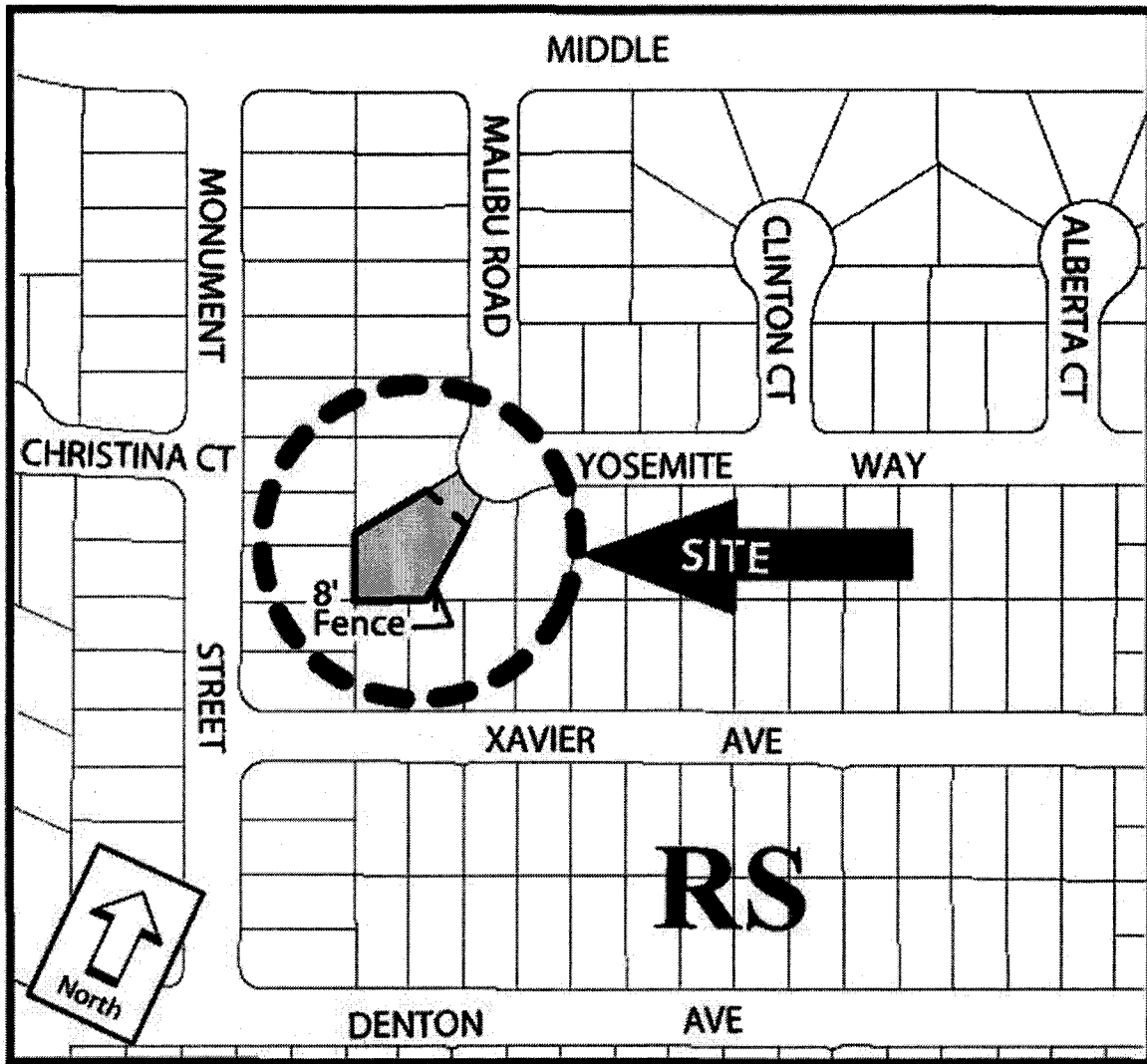
FINDINGS FOR DENIAL

Variance No. PI-2004-0073

Aaron & Denise Larson(Applicant/Owner)

April 22, 2004

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, Class 5 (a), Minor Alteration in Land Use Limitations.
- B. There are no special circumstances applicable to the property regarding this variance request in that the property is relatively flat and typical of other properties in this residential development.
- C. Strict application of the Zoning Ordinance would not deprive such property of privileges enjoyed by other properties in the vicinity under the same zoning classification in that no other properties in the vicinity have been granted a variance for an 8-foot-high fence.
- D. The variance would constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated in that other properties in the vicinity are limited to a 6-foot-high fence.



Site Plan



View looking from Malibu Road

PaulineCraft

From: pcraft@comcast.net
Sent: Sunday, February 29, 2004 3:54 PM
To: Carl Emura
Subject: PL-2004-0073 VAR

The fence is very pleasing and look great. Let them keep it! Pauline Craft